

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRANDON MIGUEL ESCAMILLA,

Plaintiff,

v.

A. OBOYLE, et al.,

Defendants.

No. 2:22-cv-2038 AC P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983, has requested information on how to submit subpoenas to the United States Marshal. ECF No. 17. The complaint in this case was screened on November 16, 2022, and service on defendants was directed to be completed through the E-Service program.¹ ECF No. 6. Service has not yet been completed on any defendant.

Plaintiff has not identified what type of subpoena he seeks to have served, and given the early stages of this case, it is unclear what documents or which individual's appearance plaintiff may be attempting to obtain through subpoenas. If plaintiff is referring to summons for service of the complaint, it is unnecessary for him to submit such documents unless service through the E-

¹ The court received plaintiff's notice of change of address shortly after the screening order was issued (ECF No. 12), and it appears that plaintiff may not have received a copy of the screening order. The Clerk of the Court will therefore be directed to provide plaintiff with another copy of the order.

1 Service program is unsuccessful. In the event that occurs, plaintiff will be provided with the
2 necessary paperwork and instructions on returning it.

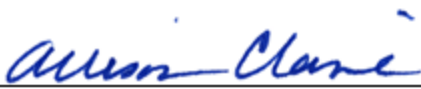
3 If plaintiff is in fact seeking to have the United States Marshal serve subpoenas, he is
4 advised that the subpoenas must first be filed with the court so that the court can evaluate whether
5 they should be served. Because Federal Rule of Civil Procedure 45(b) requires personal service
6 of a subpoena, “[d]irecting the Marshal’s Office to expend its resources personally serving a
7 subpoena is not taken lightly by the court.” Austin v. Winett, No. 1:04-cv-5104 DLB, 2008 WL
8 5213414, at *1, 2008 U.S. Dist. LEXIS 103279, at *2 (E.D. Cal. Dec. 12, 2008). Further, to the
9 extent that plaintiff is contemplating the issuance of subpoenas as a form of discovery, discovery
10 has not yet begun. Once defendants have been served and appeared, the court will set a schedule
11 for discovery in due course.

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. Plaintiff’s request for information on how to submit subpoenas (ECF No. 17) is
14 GRANTED to the extent that information has been provided above.

15 2. The Clerk of the Court is directed to re-serve plaintiff with a copy of the November
16 16, 2022 Screening Order (ECF No. 6).

17 DATED: December 20, 2022

18 
19 ALLISON CLAIRE
20 UNITED STATES MAGISTRATE JUDGE
21
22
23
24
25
26
27
28